

STATE OF HAWAII
Department of Land and Natural Resources
Division of State Parks
Honolulu, Hawai'i

January 13, 2011

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Subject: Request Approval to Enter into a Memorandum of Agreement between Department of Land and Natural Resources and Hawai'i Maoli to Repair Ornamental Ironwork at the Royal Mausoleum, Mauna'ala Nu'uauu, O'ahu (TMK: 2-2-021: 012).

At its September 9, 2010 meeting, the Board of Land and Natural Resources unanimously approved the Division of State Park's (State Parks) request to enter into a Memorandum of Agreement (MOA) with Hawai'i Maoli for the purpose of improving the driveway on the grounds of the Royal Mausoleum at Mauna'ala. This project was part of a larger effort to complete a number of badly needed repair and restoration projects at Mauna'ala which is under the administrative jurisdiction of State Parks. This effort has been primarily spearhead by Hawai'i Maoli, a nonprofit incorporation and nonprofit arm of the Hawaiian Civic Clubs, with financial support from various state, federal, and private sources and in conjunction with State Parks, the Office of Hawaiian Affairs (OHA), and the Ali'i Trusts.

Since receiving Land Board authorization in September, State Parks, Hawai'i Maoli, OHA, and the other participating parties have had to reassess the use available funds and project priorities, primarily because the cost of repairing the Mausoleum chapel and monuments were higher than anticipated. All agreed that repair of the ornamental ironworks was a higher priority than the driveway improvements and a better use of remaining state and federal funds. The driveway improvements require less specialized expertise and can be done at a later date when additional funds become available. The historic ironworks being repaired include the prominent wrought iron fence and gates that mark the ground's entry and boundary along Nu'uauu Avenue and ornamental elements at the chapel gate and the Kalākaua Crypt.

State Parks is therefore requesting Land Board approval to allow the Department of Land and Natural Resources (DLNR) to enter into a MOA with Hawai'i Maoli for the purpose of repairing the ornamental ironworks at the Royal Mausoleum. The proposed MOA (Exhibit A) establishes an understanding between Hawai'i Maoli and DLNR on their respective responsibilities for this particular undertaking and verifies that the two parties, collectively, have sufficient funds to complete the project prior to DLNR putting the project out to bid.

Much of the following background and discussion is similar to that presented in the September 9, 2010 Land Board submittal because the funding sources and existing DLNR agreements involved remain the same. Sections have been revised to reflect the change in the project being proposed. The attached draft MOA has also been revised to reflect the project change and recommendations by the Attorney General in a preliminary review of the agreement.

Background

In 2006, the Hawai'i State Legislature, through Act 224, appropriated \$180,000 in public-land-trust funds for the repair and maintenance of the Royal Mausoleum and its grounds. The Act specified that the funds be expended by OHA and that the appropriated amount would not be taken from public-land-trust proceeds designated for OHA pursuant to Section 10-13.5, HRS. To achieve this, the Governor issued Executive Order No. 07-05 which set aside a sum of \$180,000 from the public-trust-land receipts collected by DLNR and specified that it could only be used for the Royal Mausoleum as intended by Act 224, SLH 2006. In 2007, the DLNR and OHA entered into a MOA to expend these funds. Under the agreement, the funds would be used primarily to repair and reconstruct the stone wall that marks the boundary of the Royal Mausoleum grounds. If funds remained after completion of this work, they would be used to repair the driveway or the chainlike fence along the *mauka* boundary of the property. As part of the agreement, DLNR would be responsible for steps needed to complete the state procurement process, including awarding the construction contract, implementing the contract, and overseeing construction. This MOA was amended in December 2010 to allow any funds remaining after work on the stone wall to be used instead to repair the ornamental ironworks. The MOA was also extended to June 30, 2011.

The repair and reconstruction of the rock wall has been completed at a cost of \$72,500. In 2009, \$6,295 of the appropriation was used to patch, temporarily, potentially hazardous driveway segments until the entire driveway could be improved. As a result, \$101,205 of the \$180,000 appropriated by Act 224 is available to support repair of the ornamental ironworks as specified in the amended MOA between DLNR and OHA. Hawai'i Maoli, State Parks, OHA, and the Ali'i Trusts have all agreed that this would be the best use of the remaining appropriation and wish to use this as a match for a federal grant Hawai'i Maoli received from the National Park Service Save America's Treasures program in 2009. The estimated cost of the ornamental ironworks repair is \$220,000. Because this project includes the expenditure of state funds, the construction contract and bid process must comply with state procurement laws, a process DLNR is obligated to perform under the 2007 MOA with OHA. This procurement process can not proceed without Hawai'i Maoli entering into an agreement with DLNR which confirms that the federal Save America's Treasures funds will be available for this project and that Hawai'i Maoli will fulfill all obligations required under its federal grant agreement to secure these funds. The MOA for which State Parks is seeking Land Board approval will fulfill this purpose and allow DLNR to proceed with the bid process.

Discussion

The Royal Mausoleum was established by Kamehameha IV in 1864 to house the remains of the direct descendants of Kamehameha I and their close family members and advisors. After King David Kalākaua ascended to the throne in 1874, it also became the final resting place for his family and that of his wife's family. The grounds of the Royal Mausoleum have thus become a focal point for those honoring the kings and queens of Hawai'i and their lasting legacies. The Royal Mausoleum was listed on the National Register of Historic Places in 1972 and the Hawaii Register of Historic Places in 1981 (Site No. 80-14-9909). With one exception, the ironwork features being repaired are all over 50 years old and contribute to the historical character and integrity of the Royal Mausoleum and its setting and, more directly, to the historic integrity of the chapel and the Kalākaua crypt. The exception is the gates to the Kalākaua Crypt which were added in 1986. Although not historic, traditional forging techniques were used during its fabrication.

Installation of the ornamental ironwork fence and gates at the entrance to the Royal Mausoleum was completed sometime in 1870. The fence is set on a plastered, stone wall base that parallels Nu'uani Avenue for the entire length of the property, broken only by the ironwork gates that provide vehicle and pedestrian entry to the grounds (Fig. 1). The fence and gates were made of high quality wrought iron with cast iron decorative elements, including crowns, the coat of arms, medallions, locks, and fence finials (Fig. 2). According to the public works files, the ironwork fence and gates have been repaired and repainted several times beginning in 1884. The most recent restoration work was completed in 1984. None of these repairs appears to have significantly altered the original materials used or the general appearance of the fence or gates. The proposed work entails sandblasting and repainting the fence and gates, replacing missing or damaged cast iron decorative elements, replacing the entrance sign, and gilding those decorative elements that were historically gilded.

The pair of wrought iron gates at the entry to chapel vestibule may have been installed when the chapel, then a mausoleum, was first completed around 1865 (Fig. 3). The gate's wrought iron and cast iron elements were last restored as part of a larger restoration project between 1978 and 1984 (Fig. 4). As with the boundary fence, this work did not alter the gates' original materials or their appearance. The work being proposed under the MOA would include sandblasting and repairing the gates, repainting them, and re-gilding the decorative elements.

At the Kalākaua Crypt, work will focus on the wrought iron and steel gate at the crypt entry and on the eight, crown-topped, cast iron posts that mark an octagonal area above the crypt (Figs. 5 and 6). The gate will be spot sandblasted to remove rust and then painted. Gilding on the gate's decorative elements will also be repaired. The posts and crowns will be painted. Both the gates and the posts are more recent additions to the crypt which was consecrated in 1910. The posts were installed sometime after 1923 and the gates in 1986.

This project has been reviewed by the State Historic Preservation Division under both the federal and state-level historic preservation review processes and it concurred that the project,

January 13, 2011

if implemented as designed, will mitigate the potential adverse effects these repairs could have on the character and integrity of historic ironwork features. It also concurred that the proposed plans meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.

State Parks has determined that the this project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under Chapter 343, Hawaii Revised Statutes (HRS) and Chapter 11-200, Hawaii Administrative Rules (HAR). This action falls within Exemption Class 1 under §11-200-8(a)(1), HRS and within Exemption Class 1, Number 7 of the State Parks Exemption List which exempts the repair or maintenance of existing structures, including fences and gates within developed, maintained portions of State Parks [February 5, 1976].

STAFF RECOMMENDATION:

That the Board of Land and Natural Resources:

- 1) Authorize the Department of Land and Natural Resources to enter into a Memorandum of Agreement with Hawai'i Maoli for the purpose of repairing the ornamental ironworks at the Royal Mausoleum at Mauna'ala, subject to review and approval as to form by the Attorney General and such other terms and conditions as may be prescribed by the Chairperson to serve in the interest of the state.
- 2) Authorize the Chairperson as its designee to approve any revisions or amendments to the Memorandum of Agreement as needed.
- 3) Concurs that the project enabled by the Memorandum of Agreement will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under Chapter 343, Hawaii Revised Statutes (HRS) and Chapter 11-200, Hawaii Administrative Rules (HAR).

Respectfully Submitted,



Daniel S. Quinn, Administrator
Division of State Parks

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Interim Chairperson



Figure 1: Wrought Iron Fence and Entry Gate at the Royal Mausoleum with Cast Iron Ornamental Elements.



Figure 2: Cast Iron Crowns, Royal Seal, and Fence Finials on the Entry Gate and Fence, Royal Mausoleum.

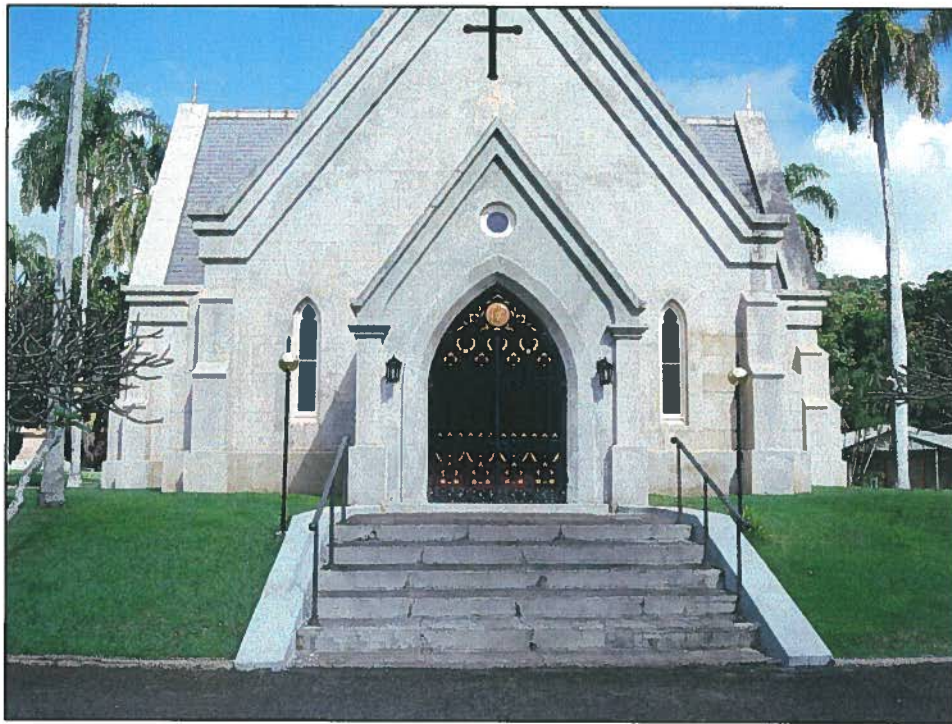


Figure 3: Wrought Gate to the Royal Mausoleum Chapel Vestibule with Gilded Cast Iron Decorative Elements.

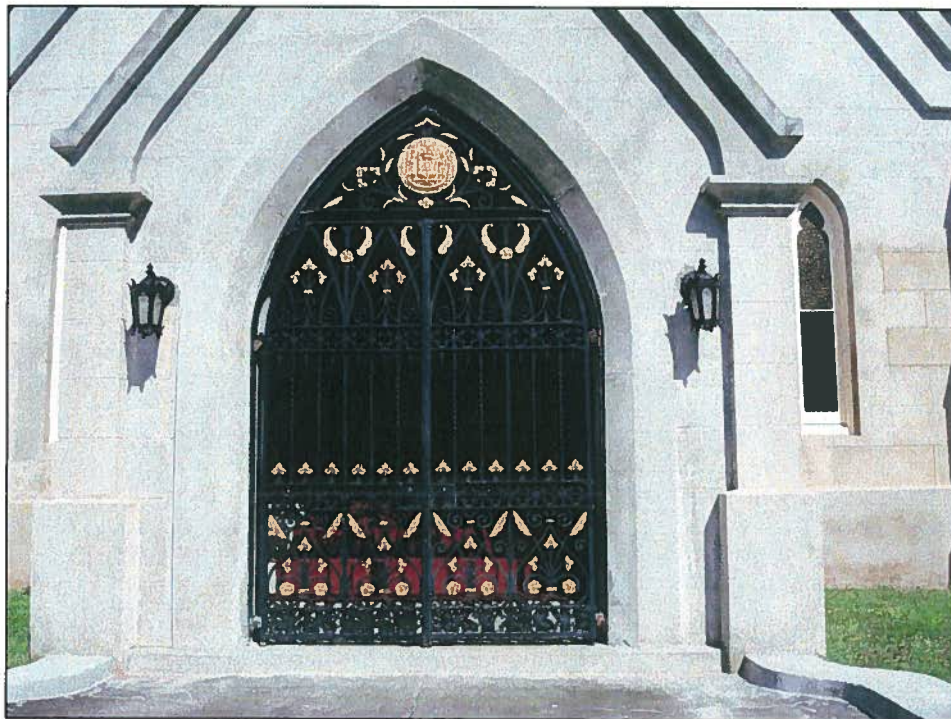


Figure 4: Glided, Cast Iron Decorative Elements on the Vestibule Gate including the Royal Seal, Finials, Floral Medallions, and Leaf Motifs.



Figure 5: Cast Iron Crowns and Perimeter Posts Marking the Octagonal Area above the Kalākaua Crypt.

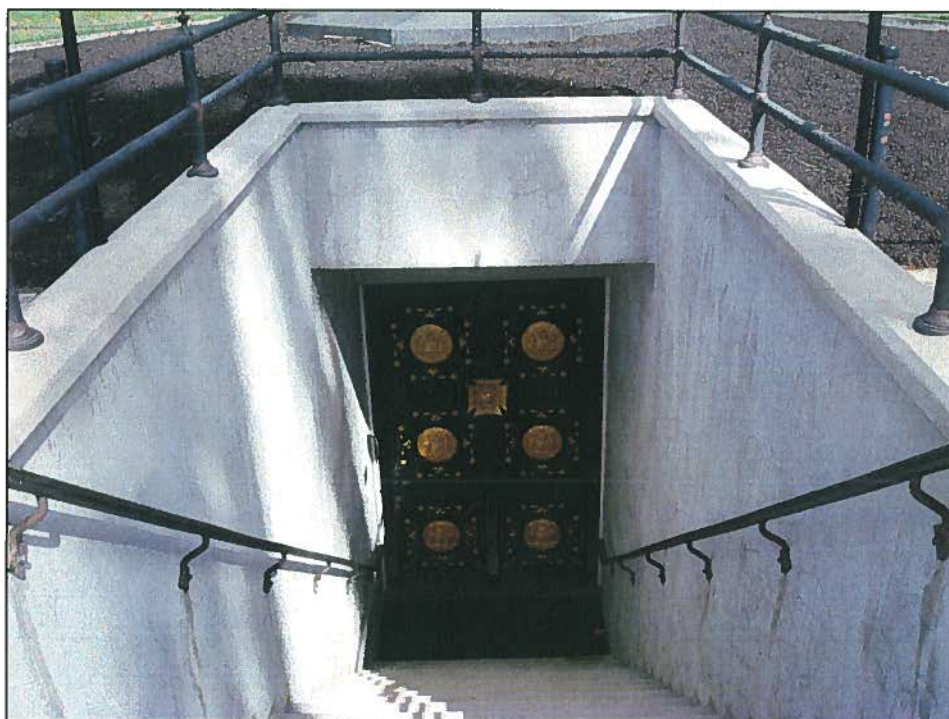


Figure 6: Iron and Steel Gate to the Kalākaua Crypt with Cast Iron Decorative Elements.

EXHIBIT A

DRAFT MEMORANDUM OF AGREEMENT

BETWEEN

HAWAI'I MAOLI

AND

THE DEPARTMENT OF LAND AND NATURAL RESOURCES

THE STATE OF HAWAI'I

I. PARTIES

This Memorandum of Agreement (MOA) is entered into on this _____, 2011 between Hawai'i Maoli, a nonprofit corporation, by its President, and the Department of Land and Natural Resources, State of Hawaii, hereafter referred to as the "DLNR", for the purposes set forth below.

II. PURPOSE

A. Background

In 1864, the property on which the Royal Mausoleum stands at Mauna'ala, Nu'uauu, TMK (1) 2-2-021: 012, was set aside by Kamehameha IV to be the final resting place for Kamehameha I's direct descendants, their immediate families, and several close advisors. After King David Kalākaua assumed the throne in 1874, the grounds also became the place of burial for his family and that of his wife. All of Hawaii's historic-period, reigning monarchs, with the exception of Kamehameha I and Lunalilo, are at the Royal Mausoleum. As such, the grounds are a focal point for those wishing to honor the kings and queens of Hawai'i and their lasting legacies.

In 1979, the Royal Mausoleum and its grounds were placed under the control and management of the Division of State Parks (State Parks), DLNR, State of Hawai'i by Executive Order 2966 and became Royal Mausoleum State Monument.

In 2006, the Hawai'i State Legislature passed, and the Governor signed, Act 224 that appropriated \$180,000 from public land trust funds to be used for the repair and maintenance of the Royal Mausoleum. The Act designated the Office of Hawaiian Affairs (OHA) as the expending agency and specified that the sum could not be taken from the public land proceeds designated for OHA pursuant to section 10-13.5, Hawaii Revised Statutes (HRS). To implement the Act, the Governor issued Executive Order No. 07-05 on May 22, 2007 that sets aside the appropriated sum of \$180,000 from the public trust land receipts collected by DLNR.

On June 26, 2007, the DLNR and OHA entered into a Memorandum of Agreement (MOA) to expend the Act 224 appropriations on particular repair and maintenance projects at the Royal Mausoleum. DLNR agreed to provide, with the assistance of a subcontractor or subcontractors if appropriate, the planning, design, and procurement

services needed to complete the specified projects. The MOA specifies that repair and reconstruction of the stone wall that marks the boundary of the Royal Mausoleum grounds would be given priority in expending these funds. Any funds remaining after completion of the wall repairs were to be used to repair the driveway or replace the chain-link fence on the upslope side of the property. Extensions of this MOA were executed on June 25, 2008 and December 10, 2009 and will terminate, if not amended, on June 30, 2011.

In July 2010, repair of the stone wall was completed at a cost of \$72,500. In 2009, \$6,295 of the appropriation was used to patch the driveway to reduce potential hazards until the entire driveway could be improved. A sum of \$101,205 remains of the original \$180,000 appropriation. DLNR and OHA agree that this remaining sum should be used to repair the ironwork features at the Royal Mausoleum. The estimated cost of the ironwork repairs are is \$220,000. Additional funds are therefore required to undertake these improvements.

In January 2011, the 2007 MOA between DLNR and OHA was amended to state that the remaining funds from the 2006 appropriation would be used to repair the ornamental ironworks at the Royal Mausoleum. This changed the previous agreement which specified that the remaining funds would be used to repair the driveway or replace the chain-link fence.

Hawai'i Maoli was formed by the Association of Hawaiian Civic Clubs in 1997 to help fulfill the Association's long-range goals to "preserve and cherish all sources and records of ancient Hawaiian traditions, customs, language and historic sites." It is a nonprofit Hawai'i corporation exempt from federal income taxation under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)3 of the Code and has considerable experience in grant and contract management for non-profit projects designed to benefit the Hawaiian people and perpetuate their language, culture, and historic sites.

On December 27, 2006, the DLNR and Hawai'i Maoli entered into a three-year MOA that allows Hawai'i Maoli to pursue, on behalf of and with the assistance of DLNR, a number of repair and renovation projects at the Royal Mausoleum and to raise funds needed for these projects through government grants and private donations. The MOA anticipates that these initiatives may be augmented by work undertaken by State Parks with funds obtained through OHA. The 2006 MOA was amended and extended in December 2009 for a period of two years.

In October 2009, Hawai'i Maoli was awarded a federal matching grant of \$300,000 from the National Park Service (NPS) Save America's Treasures program. Hawai'i Maoli proposes to use \$118,795 of this matching grant for the ironwork repairs. This sum, when combined with the remaining \$101,205 balance of the Act 224 appropriation, is sufficient to meet the estimated cost of the ironwork repairs. The Save America's Treasures grant agreement remains in effect until October 31, 2011.

B. Purpose

The Parties have a mutual interest in undertaking the various repair and restoration projects proposed for the Royal Mausoleum at Mauna'ala and to preserve and perpetuate this historically and culturally significant place in the interest of the State of Hawai'i. Under its 2007 agreement with OHA, DLNR is responsible for providing the services needed to undertake the projects specified in the MOA and to do so in manner that expends the funds appropriated under Act 224, SLH 2006, in compliance with applicable state procurement laws. Under its 2009 agreement with NPS, Hawai'i Maoli is responsible for undertaking specified projects, which includes repair of the site's ironworks, in a manner that meets all the terms and conditions of that grant agreement.

This MOA sets forth the roles and responsibilities of the Parties in undertaking the proposed ironworks repairs and establishes that the Parties, under their respective agreements with OHA and NPS, have sufficient funds to complete the improvements, provided that the contract awarded for the repairs does not exceed the currently estimated cost. If sufficient funds are not available prior to the award of the contract, the project will not proceed and the parties will discuss other potential uses of these funds and any agreements needed to pursue alternatives.

III. Responsibilities

A. DLNR will:

1. Take all steps necessary to receive and encumber the remaining balance of the Act 224, SLH, appropriation from OHA for the purpose of undertaking the repair of ironwork features at the Royal Mausoleum, to do so in accordance with the 2007 MOA between DLNR and OHA as amended in January 2011, and to do so prior to award of the contract.
2. Take all steps needed to complete the state procurement process for the ironwork repairs, including awarding the construction contract, implementing the contract, and overseeing work conducted in fulfillment of the contract.
3. Review and approve, if acceptable, preliminary plans and specifications prepared for the project by the architectural firm contracted by Hawai'i Maoli
4. Verify that the project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under Chapter 343, Hawaii Revised Statutes, and Chapter 11-200, Hawaii Administrative Rules.
5. Assist in compiling information needed to prepare county or state permit applications or approvals if required.

6. Confirm concurrence from the State Historic Preservation Division to proceed with the proposed driveway improvements in accordance with sections 6E-7 and 6E-8, HRS.
7. Compile available information and documentation, if needed, to assess or mitigate any unanticipated effects of the project on the historic character of the Royal Mausoleum grounds or any of its historic features as the project proceeds.
8. Provide the services of State Parks Archaeologists to inspect, document, and monitor the project if needed.
9. Retain ownership of the repaired ironwork features.

B. Hawai'i Maoli will:

1. Contract an architectural firm to prepare the plans and specifications needed to bid the project that will include repair of the wrought and cast iron fence and gate at the entrance to Royal Mausoleum grounds, the ironwork gates to the chapel vestibule, the wrought iron and steel gates to the Kalākaua Crypt, and the crown-topped, ironwork post above the Kalākaua Crypt. The architect preparing or supervising preparation of the plans and specifications and providing guidance during the repairs shall meet the applicable professional qualification established by the Secretary of the Interior's Standards for the treatment of historic properties.
2. Submit to DLNR for review and approval preliminary plans and specifications for the project and, when approved, one digital and one hard copy of the finalized plans and specifications as required for the bidding process.
3. Prepare and submit any City and County of Honolulu or State of Hawai'i permit applications or approvals required for the project.
4. Coordinate scheduling of the various projects being undertaken by Hawaii Maoli at the Royal Mausoleum to ensure that the ironwork repairs can proceed in a timely manner and without conflict with other projects.
5. Take all steps necessary to transfer the required funds obtained through its NPS Save America's Treasures grant to the DLNR contract fund account prior to DLNR award of the contract.
6. Fulfill all grant requirements to ensure release of the NPS grant funds for this project or seek the estimated \$118,795 needed to complete the project from other sources.

IV. General Provisions

- A. This MOA takes effect upon the signature of the Chairperson of DLNR and the President of Hawai'i Maoli and shall remain in effect until June 30, 2011, the date by which the 2007 MOA between DLNR and OHA terminates. This MOA may be extended upon written request of either DLNR or Hawai'i Maoli and the subsequent written concurrence of the other party. Either DLNR or Hawai'i Maoli may terminate this MOA with a 30 day written notice to the other party. This MOA shall not be extended beyond the termination of the 2007 MOA between DLNR and OHA, as amended, or beyond the termination of the grant agreement between Hawai'i Maoli and NPS.
- B. This MOA may be amended upon written request of either DLNR or Hawai'i Maoli and the subsequent written concurrence of the other party.

V. Administrative Contacts

The administrative contact for DLNR for this MOA is:

Daniel S. Quinn, Administrator
Division of State Parks
Department of Land and Natural Resources
1151 Punchbowl Street, Rm. 310
Honolulu, HI 96813

The administrative contact for Hawai'i Maoli:

Rae De Coito, Executive Director
Hawai'i Maoli
P.O. Box 1135
Honolulu, HI 96807

VI. Authority

The DLNR enters into this MOA under the authority provided by the Board of Land and Natural Resources at its [January 13, 2011] meeting.

Hawai'i Maoli enters into this MOA under the authority provided to its President by its Board of Directors.

VII. Approval

The undersigned Parties hereby agree to the terms and conditions set forth above.

STATE OF HAWAI'I

William J. Aila, Jr.
Interim Chairperson,
Department of Land and Natural Resources

Dated: _____

HAWAI'I MAOLI

Henry Halenani Gomes
President

Date: _____

APPROVED AS TO FORM

Deputy Attorney General